

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TANAKA LIGHT INDUSTRIES, USA LLC.

Plaintiff,

v.

ONIKA TANYA MARAJ, an individual,
p/k/a. "NICKI MINAJ"; NADIR KHAYAT, an
individual, p/k/a "RedOne"; REDONE
PRODUCTIONS, LLC., CARL A. FALK, an
individual, WAYNE A. HECTOR, an
individual, RAMI YACOUB, an individual,
UMG Recordings, Inc., Sony/ATV Music
Publishing, LLC., Warner-Tamerlane
Publishing Corp., Kobalt Music Publishing,

Defendants.

Case No. 1:13-cv-06475

JURY TRIAL DEMANDED

COMPLAINT FOR COPYRIGHT INFRINGEMENT

Plaintiff TANAKA LIGHT INDUSTRIES, USA LLC brings this action against Defendants Onika Tanya Maraj p/k/a "NICKI MINAJ,"; NADIR KHAYAT, an individual, p/k/a "RedOne"; REDONE PRODUCTIONS, LLC.; CARL A. FALK, an individual; WAYNE A. HECTOR, an individual; RAMI YACOUB, an individual; UMG Recordings, Inc., Sony/ATV Music Publishing, LLC.; Warner-Tamerlane Publishing Corp.; and Kobalt Music Publishing (collectively "Defendants") for injunctive relief, damages and statutory attorney's fees under the copyright laws of the United States.

SUBJECT MATTER JURISDICTION

1. This is an action for copyright infringement arising under the Copyright Act of 1976, 17 U.S.C. § 101, *et seq.* ("the Copyright Act").
2. This Court has subject matter jurisdiction over this action pursuant to the provisions of 28 U.S.C. §§ 1331 and 1338(a) and (b).

VENUE

3. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b)(2) and 1400(a).

FACTS

4. Plaintiff Tanaka Light Industries, USA LLC. (hereafter "Plaintiff") is the owner of United State Copyright Registration No. PA 1-830-470 with an effective date of March 27, 2013 for the musical work titled "Neu Chicago". A true and correct copy of the Certificate of Copyright Registration from the United States Copyright Office, Registration No. PA 1-830-470, is attached as Exhibit A.

5. At times herein, Plaintiff and its predecessors in interest are and were the author, composer, owner, publisher, and/or administrator of copyrights in and for certain musical compositions.

6. Plaintiff and its predecessors in interest exploited such copyrights through use of the compositions in audio and video recordings and public performances of those recordings.

7. In or about March 2009 and through March of 2010, the artist Clive Tanaka created, composed, authored, wrote, produced, performed and recorded the original musical composition entitled "Neu Chicago," which consists wholly of original material and was and is copyrightable subject matter under the laws of the United States. (a CD containing a digital copy of the Neu Chicago sound recording is attached as physical Exhibit B).

8. In 2013, Plaintiff registered and recorded with the United States Copyright Office the copyright in the musical composition "Neu Chicago." (Exhibit A).

9. Plaintiff owns all right, title and interest in and to United States Copyright Certificate of Registration for "Neu Chicago," and has standing to sue for enforcement of that copyright.

10. From the date of creation through the date of registration, Plaintiff has complied in all respects with the Copyright Act and the copyright for this work has been registered in accordance with the Act and all other laws governing copyrights as indicated by the Certificate of Registration.

11. Plaintiff has secured the exclusive right and privileges in and to the identified copyright and received from the Register of Copyrights the appropriate Certificate of Registration. The certificate constitutes *prima facie* evidence of the validity of the copyright.

12. Since its first publication in March 2010, Plaintiff's sound recording of "Neu Chicago" has been distributed and sold through internet sites, including iTunes, Amazon.com, and other services, and has been used as synchronized music for television advertising campaigns in Sweden for KappAhl a large clothing retailer and FUN Light beverages, and in online advertising campaign in the United Kingdom for ASOS, the UK's largest online retailer for women's fashion and men's clothing.

13. Prior to 2012, over 133,617 digital copies of Neu Chicago were sold and streamed worldwide, and in excess of 48,000 copies were sold and/or licensed streams of the song in Sweden alone.

14. Also prior to 2012, Neu Chicago received regular radio play in Los Angeles on radio station KCRW.FM, over 100,000 plays on radio station LAST.FM, and over 135,000 plays on YouTube.com.

15. Due to its widespread distribution and sales, Defendants had access to and had the opportunity to listen to, download, purchase and/or record Neu Chicago.

16. On February 14, 2012, Defendant Onika Tanya Maraj, p/k/a "Nicki Minaj" ("Minaj") released a digital single recording titled "Starships," from the album "Pink Friday: Roman Reloaded."

17. The album containing the song "Starships" was released worldwide on April 2, 2012, and was an instant hit, topping various airplay and sales charts, and driving sales of millions of albums and digital downloads.

18. Since then, Minaj has performed the work "Starships" throughout the world on a music video and before live audiences. (a CD containing a digital copy of "Starships" sound recording is attached as physical Exhibit C).

19. According to the United States Copyright Registration for "Starships" Defendants Minaj, RedOne, Falk, Yacoub, and Hector are all credited as writers of the song; Red One is credited a producer of the song.

20. On information and belief, Defendants Minaj, RedOne, Falk, Yacoub, Hector and RedOne Productions each contributed in whole or in part to the creation of the musical composition and sound recording, "Starships."

21. On information and belief, each Defendant and Minaj, were aware of, participated in, and contributed to the exploitation of the musical composition and sound recording "Starships," including the marketing, distribution, and exploitation of the "Starships" sound recording in the United States and including in the Northern District of Illinois, through sales of CDs, digital downloads, radio and television airplay, live performances and otherwise.

22. On information and belief, Defendants, together and individually, have earned millions of dollars in revenues through their exploitation of the musical work "Starships" and continue to actively exploit the work worldwide through sales of CDs, radio and television airplay, and otherwise.

23. On information and belief, Defendants including Minaj and RedOne copied and incorporated substantial, original portions of Plaintiff's song, "Neu Chicago," in Defendants'

musical composition and sound recording, "Starships." There is a substantial similarity between the music in the two songs due to Defendants' copying.

24. Defendants never sought or obtained Plaintiff's permission to copy, duplicate, perform, or otherwise use Plaintiff's song "Neu Chicago" in Minaj's composition and sound recording, "Starships," or at all.

25. Defendants' copying, duplication, use, performance, and exploitation of "Neu Chicago" in the composition and sound recording of "Starships" constitute infringement of Plaintiff's copyright in the composition and sound recording "Neu Chicago."

PARTIES AND PERSONAL JURISDICTION

26. Plaintiff is a limited liability company organized under the laws of the State of Illinois and with a principle place of business in Chicago, Illinois within this judicial district.

27. Defendant Minaj, is an individual who, on information and belief, resides in Woodland Hills, California. Defendant Minaj is a successful, well-known, popular star performing under the name "Nicki Minaj."

28. Defendant Minaj has sold recordings and performed in the Northern District of Illinois, other locations throughout the United States, and other countries.

29. Defendant Nadir Khayat is an individual, well-known music producer and performer known as "RedOne." (hereafter "RedOne") Upon information and belief, RedOne is a resident of the state of California and a citizen of the Kingdom of Sweden.

30. Defendant Nadir Khayat sells and distributes recorded music in the Northern District of Illinois, other locations throughout the United States, and other countries.

31. Defendant RedOne Productions, LLC., (hereafter "RedOne Productions") is a limited liability company organized and existing under the laws of the State of California. Its

primary business activity is writing, producing, recording and performing musical compositions and arrangements.

32. RedOne Productions also develops, markets, sells, publishes and distributes recorded music through a network of subsidiaries, including Songs of RedOne and 2101 Songs.

33. Defendant RedOne Productions sells and distributes recorded music in the Northern District of Illinois, other locations throughout the United States, and other countries.

34. Defendant Carl Falk ("Falk") is an individual who, upon information and belief, resides in Los Angeles, California and is a citizen of the Kingdom of Sweden. Falk is a composer, producer, songwriter and musician.

35. Defendant Falk sells and distributes recorded music in the Northern District of Illinois, other locations throughout the United States, and other countries.

36. Defendant Rami Yacoub ("Yacoub") is an individual who, upon information and belief resides in West Hollywood, California, and is a citizen of the Kingdom of Sweden. Yacoub is a music producer and songwriter.

37. Defendant Yacoub sells and distributes recorded music in the Northern District of Illinois, other locations throughout the United States, and other countries.

38. Defendant Wayne Anthony Hector ("Hector") is an individual who, upon information and belief resides in and is a citizen of the United Kingdom.

39. Defendant Hector sells and distributes recorded music in the Northern District of Illinois, other locations throughout the United States, and other countries.

40. Defendant UMG Recordings, Inc. ("UMG") is an international company in the business of recording and publishing music, with its principle place of business in Los Angeles, California. Defendant UMG develops, markets, sells, and distributes recorded music through a network of subsidiaries, including Cash Money Records, Universal Republic Records, Harajuku

Barbie Music, Songs of Universal, Inc., and Money Mack Music. Defendant UMG sells and distributes recorded music in the Northern District of Illinois, other locations throughout the United States, and other countries.

41. Defendant Sony/ATV Music Publishing, LLC (“Sony”) is international company in the business of recording and publishing music, with its principle place of business in Nashville, Tennessee.

42. Defendant Sony develops, markets, sells, and distributes recorded music through a network of subsidiaries, including Sony/ATV Songs, LLC.

43. Defendant Sony sells and distributes recorded music in the Northern District of Illinois, other locations throughout the United States, and other countries.

44. Defendant Warner-Tamerlane Publishing Corp. (“Warner:”) is an international company in the business of recording and publishing music, with its principle place of business in Los Angeles, California.

45. Defendant Warner sells and distributes recorded music in the Northern District of Illinois, other locations throughout the United States, and other countries.

46. Kobalt Music Publishing (“Kobalt”) is an international company in the business of recording and publishing music, with its principle place of business in Los Angeles, California.

47. Defendant Kobalt develops, markets, sells, and distributes recorded music through a network of subsidiaries, including Songs of Kobalt Music Publishing.

48. Defendant Kobalt sells and distributes recorded music in the Northern District of Illinois, other locations throughout the United States, and other countries.

COUNT I

COPYRIGHT INFRINGEMENT

49. Plaintiff realleges paragraphs 1-48 above and incorporates those allegations as its paragraphs 1-48 of this Count I.

50. Plaintiff is, the owner of the copyright in the musical composition "Neu Chicago" and is entitled and authorized to protect its composition against copyright infringement, including the enforcement of copyright claims.

51. Plaintiff secured the exclusive rights under 17 U.S.C. § 106, among others, to "reproduce the copyrighted work in copies or phonorecords," "to prepare derivative works based upon the copyrighted work," and to "perform the copyrighted work publicly."

52. Since at least February 2012, Defendants have infringed, and are continuing to infringe upon Plaintiff's copyright in the song "Neu Chicago," including by copying, preparing a derivative work, reproducing, causing, contributing to, and participating in the unauthorized copying, preparing a derivative work, reproduction, use and performance of the musical composition "Neu Chicago" in Minaj's composition and sound recording of "Starships" and causing same to be publicly distributed in retail stores, on the internet, by digital download, through radio and television airplay, and otherwise, including in the Northern District of Illinois.

53. Plaintiff did not authorize Defendants to copy, reproduce, perform, or use any part of the composition "Neu Chicago" in Minaj's composition, performance or sound recording, "Starships."

54. Defendants did not seek or obtain any permission, consent, or license from Plaintiff for the copying, reproduction, performance, or use of the composition "Neu Chicago" in the composition and sound recording, "Starships" or in any uses thereof that were made or authorized by Defendants.

55. Defendants have infringed on Plaintiff's exclusive rights by:

(a) Reproducing Plaintiff's copyrighted work in copies or phonorecords in violation of 17 U.S.C. § 106(1);

(b) Preparing derivative works based on Plaintiff's copyrighted work in violation of 17 U.S.C. § 106(2);

(c) Distributing copies or phonorecords of Plaintiff's copyrighted work and derivative work to the public by sale or other transfer of ownership, or by rental, lease, or lending in violation of 17 U.S.C. § 106(3);

(d) Performing Plaintiff's copyrighted work or a derivative thereof publicly in violation of 17 U.S.C. § 106(4); and

(e) Performing Plaintiff's copyrighted work and derivative work publicly by means of a digital audio transmission in violation of 17 U.S.C. § 106(6).

56. Defendants failed to properly attribute the authorship of the song "Starships" to Plaintiff.

57. Defendants' acts of infringement were done, and now continue to be done with knowledge that such actions constitute an infringement of Plaintiff's exclusive rights and are, therefore, willful. At a minimum, Defendants acted in reckless disregard of Plaintiff's copyright.

58. As a result of their actions, Defendants are liable to Plaintiff for willful copyright infringement under 17 U.S.C. § 501. Plaintiff suffered, and will continue to suffer, substantial damage to its professional reputation and goodwill, as well as losses in an amount not yet ascertained, but which will be determined according to proof. In addition to Plaintiff's actual damages, Plaintiff is entitled to receive the profits made by Defendants from their wrongful acts, pursuant to 17 U.S.C. § 504.

WHEREFORE, Plaintiff prays this Court will enter judgment, individually, jointly and severally, against Defendants Onika Tanya Maraj, p/k/a "Nicki Minaj," Nadir Khayat, p/k/a RedOne, RedOne Productions, LLC., Carl Falk, Rami Yacoub, Wayne Hector, UMG Recordings, Inc., Sony/ATV Publishing, LLC, Warner-Tamerlane Publishing Corp., and Kobalt Music Publishing for copyright infringement and finding that such infringement is willful, and order that Defendants:

- A) and all those in active concert or participation with them, be permanently enjoined from infringement of Plaintiff's copyrights pursuant to 17 U.S.C. § 502;
- B) to account for and turn over to Plaintiff all copies and all CD-Roms, DVD's, tapes or other mediums or articles by which copies of the works may be reproduced pursuant to 17 U.S.C. § 503;
- C) to pay Plaintiff its damages pursuant to 17 U.S.C. § 504, for all infringements;
- D) to pay Plaintiff its costs and attorney's fees pursuant to 17 U.S.C. § 505;
- E) to provide such other remedies under the copyright laws of the United States and/or as the Court deems reasonable and just.

Respectfully submitted,

/s/William L. Niro

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